

CALIFORNIA COASTAL COMMISSION

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Filed:	Sept. 15, 2000
49 th Day:	Waived
Staff:	JAS-SF
Staff Report:	Nov. 16, 2000
Hearing Date:	Dec. 13, 2000
Commission Action:	

**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION**

APPEAL NO.:	A-2-SMC-00-034
APPLICANT:	Christian Mickelsen
AGENT:	Fred Herring
LOCAL GOVERNMENT:	San Mateo County
LOCAL DECISION:	Approval with Conditions
PROJECT LOCATION:	155 Broadway, Princeton-by-the-Sea, San Mateo County, APN 047-023-400 and 047-023-041
PROJECT DESCRIPTION:	Replacement of an existing two-story warehouse with a 3,949-square foot three-story warehouse and office building for marine-related uses on a 7,500-square-foot lot.
APPELLANT:	Paul Perkovic
SUBSTANTIVE FILE DOCUMENTS:	San Mateo County PLN 1999-00811 (Mickelsen); San Mateo County Local Coastal Program
STAFF RECOMMENDATION:	No Substantial Issue

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EXECUTIVE SUMMARY

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed because the appellant has not raised any substantial issue with the approved project and its consistency with the certified Local Coastal Plan (LCP).

The approved development is a replacement of an existing two-story 2,450-square-foot warehouse with a new three-story 3,949-square-foot warehouse and office building for marine-related uses on three contiguous 2,500-square-foot lots. The appellant contends that the County's action on the coastal development permit was improperly noticed, that the approved project is inconsistent with policies of the LCP concerning allocation and transfer of water service capacity, and that a coastal development permit is required for assigning two assessor's parcel numbers (APNs) to property previously assigned one APN.

The appellant's contentions address the:

- noticing of the project by the County;
- need for a coastal development permit (CDP) for the assignment of two APNs to the property;
- appropriateness of providing priority water capacity for the proposed building on the portion of the property where water was transferred to a non-priority use; and
- priority water capacity to serve the parcel.

Changes to assessor's parcel numbers do not constitute land divisions and do not therefore require a CDP. Thus, failure on the part of the County to require a permit for the APN assignment does not raise a question concerning conformance of the approved commercial building with the policies of the certified LCP or the Coastal Act public access policies. Therefore, the staff recommends that the Commission find that the appellant's contention regarding the assignment of APNs does not raise a substantial issue of conformity with the approved development with the certified LCP.

Although the County's notices for its action on the project did list the previously assigned APN for the project site, the notices also described the street location of the site. In addition, the appellant was not misled by the County's error concerning the APN because the appellant submitted a letter concerning the project to the County prior to its action on the project. Therefore, the staff recommends that this contention does not raise a substantial issue of conformity of the approved commercial building with the certified LCP or the public access policies of the Coastal Act.

The Coastside County Water District (CCWD) approved two water connections for the property. The applicant transferred one of the two water service connections allocated to the project site to be used to support a non-priority use at a different location. **The approved development will use the remaining water connection – the same connection as that is currently used for the existing building.** No new water connection are included in the County's approval. Therefore, the staff recommends that this contention does not raise a substantial issue of conformity of the

approved commercial building with the certified LCP or the public access policies of the Coastal Act.

The appellant's contention concerning the availability of water capacity to serve priority land uses misinterprets the LCP and is not supported by factual evidence. Contrary to the appellant's assertions, the volume of water allocated to serve a particular development is not determined on the basis of parcel size. In addition, there is no evidence that the current water supply and delivery system serving the Princeton area is unable to support the development of priority land uses under the LCP. In fact, the general manager of the CCWD indicates that based on past growth rates, the current system has sufficient capacity to serve new development for another 13 years.

For these reasons, as more fully discussed below, the staff recommends that the Commission find the appeal raises no substantial issue concerning the conformity of the approved development with the San Mateo County Local Coastal Program or the public access policies of the Coastal Act. A motion to adopt the Staff Recommendation of No Substantial Issue is in Section 1.0.

STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission will continue with a full public hearing on the merits of the project at the same or subsequent hearing. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified LCP.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

Motion

I move that the Commission determine that Appeal No. A-2-SMC-00-034 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will

become final and effective. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SMC-00-034 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan (LCP) and/or the public access and recreation policies of the Coastal Act.

2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

2.1 Local Government Action

On August 3, 2000, the San Mateo County Zoning Hearing Officer approved with conditions the application for a use permit and a CDP, PLN 1999—00811 (Mickelsen), for replacement of an existing two-story 2,450-square-foot warehouse with a new three-story 3,949-square-foot building warehouse and office building for marine-related uses on a 7,500-square-foot lot (in the unincorporated area of Princeton in northern San Mateo County). The County appeal period ended on August 17, 2000, and there were no appeals filed with the Planning Commission. Mr. Paul Perkovic wrote a letter, which was received by the County on August 3, 2000, objecting to approval of the project with the use of priority water but did not appeal the Zoning Hearing Officer's decision to the County Planning Commission.

Mr. Perkovic spoke at the San Mateo Planning Commission meeting on January 26, 2000 in opposition to the transfer of priority water capacity from Assessor's Parcel Number (APN) 047-023-400 to APN 047-271-180. On February 8, 2000, the Board of Supervisors denied the appeal by Paul Perkovic to withdraw the water transfer.

2.2 Appeal Process

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on applications for a coastal development permit (CDP) (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a CDP application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified zoning ordinance or zoning district map. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or County.

The project is appealable to the California Coastal Commission because the approved development is located between the sea and the first public road paralleling the sea.

2.3 Filing of Appeal

The Commission received a Notice of Final Local Decision for the County Zoning Hearing Officer's approval of the proposed development on August 31, 2000. No appeals of this action were filed with the County. In accordance with the Commission's regulations, the 10-working-day appeal period ran from September 1 through September 15, 2000 (14 CCR section 13110). The appellant (Paul Perkovic) submitted his appeal to the Commission office on September 15, 2000, within the Commission's 10 working day appeal period (see Exhibit 1, Commission Notification of Appeal and Exhibit 2, Appeal From Coastal Permit Decision of Local Government). Because San Mateo County charges a fee for appeals of CDPs, the appellant filed the appeal directly with the Coastal Commission, bypassing the County's local appeal process. The Commission's regulations allow appeals of local government action on CDPs to be filed directly with the Commission where the local government charges an appeal fee (14 CCR section 13573(a)(4)).

Pursuant to Section 30261 of the Coastal Act, the appeal hearing must be set within 49 days from the date that an appeal is filed. The 49th day from the appeal filing date was November 3, 2000. The only meeting within the 49-day period was October 10-13, 2000. In accordance with the Commission's regulations, on September 18, 2000, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The County permit file information had not been received as of the day of the mailing of staff reports to the Commission and interested parties on items on the Commission's October 2000 meeting agenda. Therefore, the requested information was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question. Consistent with Section 13112 of Title 14 of the California Code of Regulations, since the Commission did not receive the requested documents and materials, the Commission opened and continued the hearing on October 12, 2000. In addition, on November 3, 2000, the applicant provided a waiver of his right to an appeal hearing being set within 49 days from the date the appeal was filed.

2.4 Appellant's Contentions

The Commission received an appeal of the County of San Mateo's decision to approve the project from Paul Perkovic. The full text of the appellant's contentions as submitted to the Commission is presented in Exhibit 2. For purposes of the analysis, staff has summarized the contentions as listed below.

- 1) Adequate public notice was not provided because the wrong APN was referenced in the County reports.
- 2) A coastal development permit should have been obtained for assignment of two APNs to the property.
- 3) The applicant has relinquished the right to use water allocated for priority uses on a portion of the property proposed for development.
- 4) There is insufficient water supply capacity to serve the proposed development.

2.4.1 Adequate Public Notice

The appellant contends that adequate public notice was not provided because the wrong APN was referenced in County's hearing notices. Public notices distributed by the County referenced APN 047-023-330 when they should have referenced the two APNs that the property had been assigned: APNs 047-023-400 and 047-023-410. The appellant states that "all of the County's public notices were inadequate, deceptive, and misleading, because they did not properly describe a legal parcel." He maintains that "The public has been deprived of the right to comment on the project by deceptive description of an invalid parcel number which conceals the existence of the priority water transfer from the subsequently-assigned parcel number."

2.4.2 Coastal Development Permit for Partition of APNs

The appellant contends that assignment of two separate APNs to the property required a CDP in accordance with San Mateo County Local Coastal Plan (LCP) policies 1.1 and 1.2. He contends that the County should have issued a CDP because "the County allowed a change in the density or intensity of use of the land by dividing a single holding into two parts, and it allowed a change in the intensity of use of water by that same division." He also notes that the original parcel was assigned two APNs while a CDP application for building on those lots was pending, thereby invalidating the application. He maintains that a CDP cannot be issued for this project without a previous CDP for the land division.

2.4.3 Priority Water Connection

The appellant contends that the applicant has given up the right to use priority water capacity on a portion of the property proposed for development, and therefore that the development proposed on this portion of the property is in conflict with LUP Policy 2.8. He asserts that the "portion of the former APN 047-023-330 described by the new APN 047-023-400, which released water capacity, is barred from development now." He urges the Commission to either deny the current development application, require that the applicant purchase and use non-priority water, or condition the proposed development so that all priority water usage by the proposed development is contained within APN 047-230-410.

2.4.4 Water Capacity

The appellant contends that the applicant has relinquished claims to more water than is allocated to the parcel. He bases this claim on parcel size, and references LUP Table 2.10. He states that the proposed development is a Marine Related Industrial use and LUP Table 2.10 allocates water to such uses at 2,500 gallon per acre per day. With a project site of 7,500 square feet, he estimates that the parcel is allocated only 0.59 standard water connection by the LCP (see computations on page 5 of the appellant's letter in Exhibit 2). Because the applicant has transferred one standard water connection (5/8-inch pipe) from the project site, the appellant contends that no priority capacity remains to serve development on the site.

2.5 Project Location and Site Description

The project approved by the County is in the unincorporated area of Princeton-by-the-Sea in San Mateo County, California (Figure 1 and Figure 2). The proposed building site is composed of three 2,500 square-foot lots. Lot 1 is assigned APN 047-023-400 and lots 2 and 3 are jointly

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assigned APN 047-023-410, as shown on Figure 3. The site is 100 feet along Harvard Avenue and 75 feet along Broadway (Figure 4).

The property is designated in the County's LUP as Commercial Recreation and is zoned Coastside Commercial Recreation/Design Review/Coastal Zone District (CCR/DR/CD). The proposed storage and office space for marine-related trades and services requires issuance of a use permit under Section 6267.F of the San Mateo County zoning regulations.

The existing land uses include a two-story corrugated metal warehouse, driveway and parking area surrounded by a barbed wire fence. Uses nearby are a mix of older warehouses, parcels with outdoor storage, and residences.

There are no trees on the site, only ornamental shrubs adjacent to the warehouse and ruderal (weedy) vegetation interspersed with bare ground. The project site is outside the limit of detailed soil survey conducted by the Soil Conservation Service. The closest soils are Dennison coarse sandy loam, nearly level (DeA) and Denison clay loam, nearly level (DcA). Both of these soil types have a very slow runoff rate and an erosion potential of none to slight (US Department of Agriculture 1961). The site is within an area of minimal flooding, flood zone C, according to the Flood Insurance Rate Map.

2.6 Project Description

2.6.1 Approved Project

The project approved by the County is the replacement of an existing two-story warehouse with a 3,949-square foot three-story warehouse and office building for marine-related uses. The warehouse portion would occupy 854 square feet and the office would occupy 2,607 square feet. The ground floor is 1,110 square feet; the main floor is 2,275 square feet, and the top floor is 564 square feet (Figures 4, 5, and 6). The approved building is 35 feet high with a copper roof and gray cement exterior walls (Figure 7). The approved building would straddle all three lots along Broadway with 15 parking spaces and some landscaping occupying the remainder of the property. Minimal grading was approved for foundation excavation only, and would be done during the "dry season" whenever possible. The County's CDP imposes extensive conditions addressing erosion and sediment control. The approved project includes landscaping at the corner of Harvard Avenue and Broadway and a few other areas.

The approval includes 25 special conditions, as listed in Exhibit 3 (San Mateo County 2000). Conditions 2, 5, 6, and 7 are pertinent to this appeal because they ensure that uses comply with the site zoning and permitted uses. In particular, Condition 6 requires that the applicant execute and record a deed restriction that states "permitted uses of the building are 'marine storage' on the first floor and 'ancillary and marine-related office' on the second and third floor." The County imposed the condition to ensure that the approved development (and the water allocated to the development) will serve coastal-dependent priority uses.

2.6.2 History of the Parcel and Water Transfers

The project site is shown on "Map of Princeton By the Sea, Half Moon Bay, San Mateo County, California" (San Mateo County 1907) as lots 1, 2, and 3 along Broadway, with Lot 1 at the intersection of Broadway and Harvard Avenue.

The Coastsides County Water District (CCWD) established procedures for conversion of water capacity reserved for priority water use to non-priority status on December 14, 1993, by Resolution No. 849 (Exhibit 4). These procedures were amended and restated by Resolution 1999-01 (Exhibit 5). The procedures provide that property owners entitled to priority water service during LCP Phase I (because their property is zoned for coastal-dependent priority land-uses) may transfer their priority water rights to other properties not designated for priority use. A person electing this option must forego priority water service from CCWD for 10 years or until the Planning Commission determines that the CCWD has developed sufficient additional water supply capacity for use during Phase II of the LCP, whichever occurs last. In addition, for each conversion of water capacity, the CCWD must determine that less than 50 percent of the capacity to be reserved for priority use in the County during Phase I of the LCP has been converted to non-priority use.

On October 20, 1999, the County of San Mateo reassigned APN 047-230-330, which was composed of lots 1, 2, and 3, into APN 047-023-400 and APN 047-023-410 (Exhibit 6). Lot 1 was assigned APN 047-023-400 and lots 2 and 3 are jointly assigned APN 047-023-410. This assignment of APNs allowed for the conversion and reallocation of one 5/8-inch connection of priority water from APN 047-023-400, which is zoned for priority land use, to APN 047-271-180 in El Granada, which is not zoned for priority land use. According to Resolution No. 1999-25 (Exhibit 7) the CCWD determined that there was unused and uncommitted priority water capacity sufficient to meet the projected demand for priority water during Phase I under the LCP as well as the capacity to be used at APN 047-271-180. The resolution requires Christian Mickelsen to relinquish any right to purchase priority water service connections for APN 047-023-400 from the CCWD for 10 years or until the San Mateo County Planning Commission determines that the CCWD has developed sufficient additional water supply capacity for use during Phase II of the LCP, whichever occurs later.

The property has an existing warehouse which has one 5/8-inch water connection. Under the approved project this building would be demolished and replaced with a new warehouse and office space for marine-related uses. The approved development would only use the one existing 5/8-inch water connection.

2.7 Substantial Issue Analysis

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

2.7.1 Allegations that Do Not Raise Substantial Issue

The Commission finds that the appellant's contentions regarding LCP provisions related to public notice, priority water allocation, and water capacity do not raise a substantial issue of the conformity of the approved commercial building with the policies of the certified LCP or the access policies of the Coastal Act.

The contentions discussed below present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the County raises issues related to LCP provisions regarding the requirements for public notice, priority water allocation, and water capacity.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County raises no substantial issue with regard to the appellants' contentions regarding assignment of APNs, adequacy of public noticing of the project by the County, the appropriateness of priority water allocation to the proposed building; and water capacity to serve the parcel.

Coastal Development Permit for Partition of APNs

The Commission finds that the appellant's contention regarding the need for a coastal development permit for the assignment of APNs does not raise a substantial issue of conformity of the approved development with the certified LCP or the access policies of the Coastal Act.

Contention

The appellant contends that assignment of two separate APNs to the property required a CDP in accordance with San Mateo County Land Use Plan (LUP) policies 1.1 and 1.2. The appellant further contends that because the original parcel was assigned two APNs while a CDP application for building on those lots was pending, the application is invalid.

Applicable Policies

LUP policy 1.1 requires a CDP for all development in the Coastal Zone, except for exemptions. LUP policy 1.2 defines development, as stated in Section 30106 of the Coastal Act. Development includes "... change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act ... and any other division of land, including lot splits ..."

Discussion

Changes to assessor's parcel numbers do not comprise land divisions or changes in the intensity or use of land, and do not therefore require a CDP. The purpose of the Assessor's parcel numbering system is to index and track units of land for the sole official purpose of property tax assessment, although other entities use the system as a convenient way to identify property for other purposes. The systems for assigning Assessor's parcels and the system for subdividing property for purposes of development are separate and distinct, neither having any directive effect on the other.

In this case, the property consists of three subdivision lots (Lots 1, 2 and 3 of Block 6) which had previously been assigned one APN. The owner requested instead that the same three lots be assigned new APNs. He asked that Lot 1 be assigned its own APN and Lots 2 and 3 together a separate APN. This assignment of APNs had no effect on the subdivision lots themselves, which remain the basis for development decisions in the County. This property continues to consist of three separate and distinct legal subdivision lots, which could be developed independently or in common.

Therefore, failure on the part of the County to require a permit for the APN assignment does not raise a question concerning conformance of the approved development with the policies of the certified LCP or the Coastal Act public access policies. The Commission finds that the appellant's contentions regarding the assignment of APNs does not raise a substantial issue of the conformity of the approved commercial building with the policies of the certified LCP or the access policies of the Coastal Act.

Adequacy of Public Notice

The Commission finds that the appellant's contention regarding the adequacy of the public notice for the approved project does not raise a substantial issue of the conformity of the approved commercial building with the policies of the certified LCP or the access policies of the Coastal Act.

Contention

The appellant contends that adequate public notice was not provided because the wrong APN was referenced in County reports. He maintains that "The public has been deprived of the right to comment on the project by deceptive description of an invalid parcel number which conceals the existence of the priority water transfer from the subsequently-assigned parcel number."

Applicable Policies

Section 6328.11.1 of the San Mateo County zoning regulations (implementation plan of the LCP) addresses noticing requirements for development that is appealable to the Coastal Commission. Section 6328.11.1(b) states that the notice must include a "description of the development at its proposed location."

Discussion

In accordance with the LCP, the County's notices identified the location of the approved project at Harvard and Broadway in Princeton. Section 6328.11.1(b) does not require that the APN be included. When the applicant applied for a CDP, the APN for the entire site was 047-023-300. Subsequently, the parcel was reassigned two APNs (047-023-400 and 047-023-410). Although the County's notices continued to refer to the original APN, there was no attempt to hide where the parcel was located. In his letter of August 3, 2000 the appellant demonstrated that he understood the location of the project site (Exhibit 8). No other complaints about the noticing or confusion about location of the development were received by the County.

More importantly, the notice, which identified the street address, was in conformance with the LCP. In accordance with Section 6328.11.1(c), the County sent notices to all property owners within 100 feet of the perimeter of the parcel on which the development is proposed and all other interested parties. Section 6328.11.1(c) requires that notice be published once in a "newspaper of general circulation in the Coastal Zone." The County published the public notice of the Planning Commission agenda for August 3, 2000, which included the approved development, in **two** local newspapers, the San Mateo County Times, and the Half Moon Bay Review. All of these notices included a description of the street location of the development as well as the original APN.

Finally, the contention raises a procedural inconsistency and not a substantial or substantive inconsistency of the approved project with the certified LCP. The contention thus raises a local issue relevant only to this project and not an issue of regional significance since the County has LCP notification policies in place and the County's decision to approve the permit would not influence the existing LCP standards that include notification provisions.

Conclusion

The Commission finds that the appellant's contentions regarding adequacy of public notice do not raise a substantial issue.

Priority Water Connection

The Commission finds that the appeal does not raise a substantial issue with respect to conformance of the approved project with the policies of the San Mateo County certified LCP regarding reservation of public works service capacity for priority land uses.

Contention

The appellant contends that a portion of the property proposed for development has given up the right to use priority water capacity, and in proposing this development is in conflict with LUP Policy 2.8. He recommends that the Commission either deny the permit, require that the applicant to purchase and use non-priority water, or condition the proposed development so that all priority water usage by the proposed development is contained within APN 047-230-410.

Applicable Policy

LUP Policy 2.8 requires that for each phase of public works development, adequate public works capacity is reserved to allow development of priority land uses to the buildout allowed by that phase. Tables 2.7 and 2.17 specify the priority land uses for which water service capacities are to be reserved during both LCP Development Phase I and at LCP buildout. These uses include Marine Related Industrial. Policy 2.8(c) allows reallocation of reserved capacity to non-priority land uses under certain circumstances, but specifies that “at least 50 percent of the priority land uses planned in each phase must be provided capacity for.” The complete text of this LUP Policy is contained in Appendix B.

Discussion

The County coordinates water connections and transfers based on APNs. APN 047-230-330 was reassigned APNs 047-230-400 and 047-230-410. This reassignment facilitated the transfer of priority water from APN 047-230-400 to a non-priority use on APN 047-271-180 in El Granada. Mr. Perkovic appealed the County’s approval of the water transfer to the Board of Supervisors. On February 8, 2000, the Board denied this appeal. This water transfer was part of a separate action and is not part of the CDP that is being appealed.

The approved development allows the replacement of an existing warehouse with a new warehouse. Like the existing warehouse, the new building will straddle both of the two APNs assigned to the project site. Through the water transfer described above, the applicant relinquished his right to use the priority water connection allocated to APN 047-230-400 to serve development at the site. The applicant did not transfer the 5/8-inch water connection allocated to APN 047-230-410 that is currently used for the existing warehouse. This same 5/8-inch water connection will be used for the new warehouse. No new water connections are included in the approved development. Therefore, the approved development will be served by the water connection allocated to APN 047-230-410 and not by the connection transferred to a non-priority use on APN 047-271-180. **The County’s approval of CDP 1999-00811 has no effect on the quantity of water allocated to serve development at the project site.** Therefore, the proposed development is not in conflict with LCP Policy 2.8.

Conclusion

The Commission finds that the appellant’s contentions regarding priority water connections do not raise a substantial issue.

Water Capacity

The Commission finds that the appeal does not raise a substantial issue with respect to conformance of the approved project with the policies of the San Mateo County certified LUP regarding water capacity.

Contention

The appellant contends that the applicant has relinquished claims to more water than is allocated to the parcel. He bases this claim on parcel size, and references LUP Table 2.10. He states that the proposed development is a Marine Related Industrial use and LUP Table 2.10 allocates water to such uses at 2,500 gallon per acre per day. With a parcel size of 7,500 square feet, he estimates that the parcel is allocated only 0.59 water connections by the LCP (see computations on page 5 of the appellant's letter in Exhibit 2). Because the applicant has transferred one 5/8-inch connection from the project site, the appellant contends that no priority capacity remains to serve development on the site.

Applicable Policies

LUP Table 2.10 is shown in Exhibit 9. This table lists estimated water generation factors for various land uses in the El Granada Princeton area. These estimates were derived during 1978 through 1980, and amended as noted in the table (George Bergman, personal communication).

Discussion

The appellant is misapplying the data in LUP Table 2.10. The CCWD does not determine priority water allocation based on parcel size (see Exhibit 10). The water generation factor is an estimate rather than a mandate for how water is allocated. The estimates in the table were derived over 20 years ago, and are proposed to be updated as part of the County's LCP update. In addition, there is no policy in the LUP that references Table 2.10. According to CCWD, if the historical rate at which priority connections have been purchased since 1987 were to continue, the system would have approximately 13 years worth of priority capacity remaining.

In determining if the appeal raises a substantial issue of conformity with the LCP, the Commission is guided by an evaluation of the extent and scope of the approved development, the significance of the coastal resources affected by approved development, and whether the appeal raises only local issues, or those of statewide significance. The scope of the approved development is minor. It is an in-fill development at a lot that is already developed with a similar use. It is consistent with the zoning designation, is compatible with adjacent land uses, and is located in an industrial area. The approved development will use the same standard 5/8-inch priority domestic water connection as does the existing building. The approved development is likely to consume less water than other uses allowed in this zoning district such as aquacultural processing facilities and boat building, repair, sales and support establishments. Thus, committing these services to the approved development will not affect significant coastal resources. For these reasons, the Commission finds that the appellant's contention that the approved development does not qualify for priority sewer and water services does not raise a substantial issue of conformity with the policies of the certified LCP or the public access policies of the Coastal Act.

In addition, as described in the similar Iacopi appeal (A-2-SMC-00-022), which the Commission found raised no substantial issue in September 2000, the Commission acknowledged that the

CCWD is taking appropriate measures to ensure that adequate water service capacity be reserved to serve priority land uses.

On October 19, 1999, the San Mateo County Board of Supervisors approved a CDP application from the CCWD to upgrade the El Granada Transmission Pipeline from the existing 10-inch line to a 16-inch line. The County approval of this project was appealed to the Coastal Commission. On February 18, 2000, the Commission found that the appeal raised a substantial issue, in part, because the approved 16-inch pipeline may exceed the capacity necessary to serve the level of buildout of all uses – priority and non-priority – provided for during LCP Phase I, and could therefore be growth inducing (CCC 2000). The CCWD has requested that the Commission postpone action on the de novo portion of this appeal to allow the District to re-evaluate the appropriate level of transmission system upgrades necessary to serve Phase I buildout. The District has indicated in a letter to the Commission its intention to seek final approval of the system design and implementation plan that satisfy the LCP requirements and meet the community's needs for water quality and availability (Exhibit 11). The Commission will thus be able to review the adequacy of the CCWD actions for the future development when the Commission acts on the de novo portion of the CCWD upgrade.

Conclusion

Adequate water service is currently available to serve development of priority land uses, and the CCWD is currently undertaking measures to provide an appropriate level of public works expansion to serve future development allowable under the LCP. Therefore, the Commission finds that the appeal raises no substantial issue with regard to the LCP requirement that adequate water service is reserved to provide for the development of priority land uses.

2.7.2 Allegations that Raise Substantial Issue

None of the appellant's contentions raise substantial issue.

2.7.3 Conclusion

The Commission finds that, for the reasons stated above, the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP.

APPENDIX A

Substantive File Documents

References

California Coastal Commission (CCC) 2000. Substantial Issue Determination for Coastside County Water District (CCWD) for the El Granada Pipeline Replacement Project (A-2-SMC-99-63).

San Mateo County 1907. Map of Princeton by the Sea, Half Moon Bay, San Mateo County, California. Scale: 100 feet to 1 inch. August 1907.

San Mateo County 2000. CDP PLN 1999-00811 (Mickelsen) to Fred Herring. August 3, 2000.

US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.

APPENDIX B

Referenced Policies of the San Mateo Local Coastal Plan

Land Use Policies

1.1 Coastal Development Permits

After certification of the LCP, require a Coastal Development Permit for all development in the Coastal Zone subject to certain exemptions.

1.2 Definition of Development

As stated in Section 30106 of the Coastal Act, define development to mean: On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any buildings, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

2.8 Reservation of Capacity for Priority Land Uses

- a. Reserve public works capacity for land uses given priority by the Local Coastal Program as shown on Table 2.7 and Table 2.17. All priority land uses shall exclusively rely on public sewer and water services.
- b. For each public works development phase, reserve capacity adequate to allow priority land uses to develop to the buildout allowed by that phase.
- c. Under the following circumstances, allow public agencies and utilities to reallocate capacity to non-priority land uses: (1) when landowners refuse to pay the assessment fees for public services to serve priority land uses because they desire to keep their land vacant or develop a non-priority land use allowed on the site by the Local Coastal Program, and (2) when a landowner, in response to a written inquiry by a public agency or utility, indicates in writing that he/she does not plan to develop his/her land as a priority land use and will not be using any reserved capacity during a certain phase. The public agency or utility shall calculate the capacity needed to serve the remaining priority land uses. Reserved capacity that is not required for the remaining priority land uses may be reallocated to non-priority land uses after the public agency has gained the approval of the Planning Commission. Before

approving the reallocation, the Planning Commission shall make the finding, in writing, that the remaining reserved capacity will be adequate to serve the remaining priority land uses. The reservation of capacity for priority land uses shall be increased during the next phase to compensate priority land uses for this reallocation. At least 50% of the priority land uses planned in each phase must be provided capacity for; that capacity may not be allocated to the next phase.

- d. Allow Coastside County Water District to allocate priority capacity equivalent to ten standard-size (5/8 inch diameter) service connections (approximately 2,710 gallons per day total) in order to provide municipal water service to residential dwellings which are connected to the public sanitary sewer system, when such a connection is necessary to avert a substantial hardship caused by the failure of a private well serving the dwelling in production quantity or quality as certified by the Director of the Department of Environmental Health. For purposes of this policy, "substantial hardship" shall not include any failure which can be remedied by repair or replacement of well equipment or facilities, or relocation of a well on a parcel. Whether substantial hardship exists shall be determined by the Planning Director, following consultation with the Director of Environmental Health and the General Manager of the Coastside County Water District.

In order to minimize the reduction in water reserved for Coastal Act priority land uses, applications for reallocated water shall include a Water Fixture Retrofit Plan to replace existing water fixtures of the residence applying for the connection with water conserving fixtures. This plan must be reviewed and approved by the Coastside Community Water District General Manager prior to the establishment of the connection, and contain the following:

- (1) A list of all existing fixtures to be retrofitted and their present associated water flow (e.g., gallons/second);
- (2) A list of all proposed fixtures to be installed and their associated water flow;
- (3) The estimated annual water savings resulting from the proposed retrofit, showing all calculations and assumptions; and
- (4) A leak detection test; all leaks shall be repaired, but such repairs shall not be calculated in the estimates of savings.

Coastside Community Water District inspection personnel shall inspect the water fixtures prior to and following the retrofit to confirm compliance with the approved plan and proper installation.

LCP Implementation Ordinance Standards (Zoning Code Sections)

Section 6328.11.1 Notice of Developments Appealable to Coastal Commission.

- (a) Definition of development appealable to the Coastal Commission is that provided in Sections 6328.3(r) and (s).
- (b) Contents of Notice:
 1. A statement that the development is within the Coastal Zone.
 2. The date of filing of the application and the name of the applicant.
 3. The number assigned to the application.
 4. A description of the development at its proposed location.

5. The date, time and place at which the application will be heard by the local governing body or hearing officer.
 6. A brief description of the general procedure of local governing body concerning the conduct of hearing and local actions.
 7. The system for local governing body and Coastal Commission appeals, including any local fees required.
- (c) Provision of Notice Prior to Public Hearing: Mail notice at least ten (10) calendar days before the first public hearing on the project to the following people and agencies:
1. Applicant.
 2. Owner of the property.
 3. All property owners and residents within 100 feet of the perimeter of the subject parcel.
 4. All persons who have, within the past calendar year submitted a written request for notice of all Coastal Permit applications.
 5. All persons who have requested, in writing, notices relating to the Coastal Permit in question.
 6. The Coastal Commission.
 7. Public agencies which, in the judgment of the Planning Director, have an interest in the project.
 8. Newspaper of general circulation in the Coastal Zone. Notice to be published once.
- (d) Notice of Continued Public Hearings: If a decision of an appealable Coastal Development Permit is continued to a time which has not been stated in the initial notice or at the public hearing, notice of the continued hearing shall be provided in the same manner and within the same time limits as outlined in Section 6328.11.1 (a), (b), (c).
- (e) Notice of Decision: On or before the fifth working day following action by the Zoning Hearing Officer or the Planning Commission, notice of the decision, including findings for approval and conditions (if any) on the project proposal shall be mailed to the following people:
1. The applicant.
 2. The owner of the subject parcel.
 3. All persons who have submitted a written request for notification of action on this specific permit.
- (f) Notice of Final Local Decisions: On or before the fifth (5th) working day following action by the Board of Supervisors, notice of the decision, including findings for approval and conditions (if any) shall be mailed to the following people and agencies:
1. The applicant.
 2. The owner of the subject parcel.
 3. All persons who have submitted a written request for notification of action on this specific permit.
 4. The Coastal Commission.